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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,782	09/04/2003	Kenneth Roach	1026-6U	5494
31292	7590	03/25/2005	EXAMINER	
CHRISTOPHER & WEISBERG, P.A. 200 EAST LAS OLAS BOULEVARD SUITE 2040 FORT LAUDERDALE, FL 33301			WHITE, DWAYNE J	
		ART UNIT		PAPER NUMBER
				3745

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*Supplemental  
Office Action Summary*

Application No.	Applicant(s)	
10/654,782	ROACH ET AL. <i>GD</i>	
Examiner	Art Unit	
Dwayne J White	3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 04 September 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 04 September 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/4/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

**DETAILED ACTION**

**EXAMINER'S NOTE**

The Office Action dated 22 December 2004 is hereby vacated in view of this immediate Office Action to correctly cite inadvertently omitted claims in the previous action. The Examiner apologizes for any inconvenience this may have caused.

***Claim Objections***

Claim 11 is objected to because of the following informalities:

On line 1, "or" should be --for--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, claim 4 recites the limitation of "a motor assembly enclose within the housing for actuating the fan assembly from an inoperative to an operative orientation," on lines 7-8. While this limitation is disclosed in the specification on page 3, it is unclear as to what the inoperative and operative orientation is. Clarification is required. For the purposes of

examination, the Examiner is taking the position that the two orientations are referring to one of the fan assembly rotating and not rotating.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-12, 15 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Shapiro (US Patent Application Publication 20040120816). Shapiro discloses a height adjustable tower fan comprising: A base assembly 712; a height adjustable support column 710 extendable from the base assembly; a housing assembly 702 rotatably mounted upon the support column; a vertical axis fan assembly 1002 enclosed within the housing assembly and rotatably mounted therein; and a motor assembly 1006 enclosed within the housing for actuating the fan assembly from an inoperative to an operative orientation; wherein the height-adjustable support column has a first upper end rotatably coupled to the housing assembly and a lower second end insertable within the base assembly, the support column movable between fixed, retracted position and extended positions (page 32, paragraph 49, lines 11-22). The tower fan further comprises a motor assembly 900 for oscillating the tower fan and a remote control unit for controlling speed, rotation, and oscillation (page 3, paragraph 52, lines 14-21). The adjustable support column 710 further comprises (See Figure 8A and 8B) an elongated hollow pillar

member and an elongated extension member having a diameter less than the circumference of the pillar member, a cylindrical sleeve mechanism adapted to receive a portion of the pillar and fix the pillar at a height

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shapiro in view of Boulva (6,344,065). Shapiro discloses all of the claimed subject matter except for the housing assembly comprising a filter.

Boulva teaches a tower fan wherein the housing is provided with a filter for the purpose of purifying the air being circulated. Since both Shapiro and Boulva disclose tower fans, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the housing of Shapiro, with the teachings of Boulva, by providing a filter within the housing of the fan assembly for the purpose of filtering the air being circulated.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shapiro in view of Litvin et al. (5,368,445). Shapiro discloses all of the claimed subject matter except for weight ballast within the base assembly.

Litvin et al. teach (column 3, lines 1-8) a pedestal fan wherein the base assembly includes weight ballast. Since both Shapiro and Litvin et al. disclose pedestal fans and it is known that

pedestal fans must have a counter weight to balance the reaction forces created by the fan during operation, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the base assembly of Shapiro, with the teaches of Litvin et al., by providing weight ballast for the purpose of balancing the fan assembly.

## CONCLUSION

### *Prior Art*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Escobar et al (6,533,551) disclose a fan assembly having a remotely adjustable support column, and a wireless or wired controller for adjust the height, speed and tilt of the fan.

### *Contact Information*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwayne J White whose telephone number is (571) 272-4825. The examiner can normally be reached on 7:30 am to 5 pm T-F and alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3745

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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